

PATENT

Attorney Docket No. 5725.0895-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Sue FENG et al.) Group Art Unit: 1615
)
Application No.: 10/699,780) Examiner: VENKAT, J.
)
Date Filed: November 4, 2003) Confirmation No.: 5902
)
For: METHODS OF PROVIDING)
INTENSE COLOR TO COSMETIC)
COMPOSITIONS USING AT)
LEAST ONE HETEROPOLYMER)
(as amended))

MAIL STOP AMENDMENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. § 1.97(c)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(c), Applicants bring to the attention of the Examiner the documents on the attached listing. This Supplemental Information Disclosure Statement ("IDS") is being filed after the events recited in Section 1.97(b) but, to the undersigned's knowledge, before the mailing date of either a Final action, Quayle action, or a Notice of Allowance. Under the provisions of 37 C.F.R. § 1.97(c), this IDS is accompanied by a fee of \$180.00 as specified by Section 1.17(p).

Copies of the listed foreign and non-patent literature documents are attached.
Copies of the listed U.S. patents and U.S. patent publications are not enclosed.

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Applicants respectfully requests that the Office consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

I. Co-Pending Applications

The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003), that an "adverse decision" by another examiner may meet the materiality standard under the amended Rule 56, and thus, Applicants should disclose prior rejections of "substantially similar claim[s]" to the Office. Accordingly, although Applicants are not representing that the office actions in the co-pending applications are material to the present application and are not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicants have listed the substantive office actions filed in co-pending applications on the attached form. At the Examiner's request, Applicants have not included copies of Office Actions issued by the present Examiner in copending applications.

II. Litigation Documents

Further to the Notification of Pending Litigation filed July 23, 2004, Applicants submit a copy of L'Oreal's Complaint for Patent Infringement, dated April 7, 2004, and Estee Lauder's Answer and Counterclaims, dated May 27, 2004, submitted in the on-going litigation *L'Oreal S.A., et al. v. The Estee Lauder Companies Inc., et al.*, Civil

Action No. 04-1660 (D.N.J.). These documents are enclosed with this IDS and are listed on the IDS Form PTO/SB/08.

III. Non-English Language References

With respect to the non-English language documents, Applicants submit the following remarks:

1. **EP 1 382 322 A2** - An abstract of the disclosure of this document can be found in the English language Derwent abstract submitted herewith.
2. **EP 1 477 154 A1** - An abstract of the disclosure of this document can be found in the English language esp@cenet abstract submitted herewith.
3. **FR 2 528 699** - An abstract of the disclosure of this document can be found in the English language Derwent abstract submitted herewith.
4. **FR 2 804 286** - An abstract of the disclosure of this document can be found in the English language Derwent abstract submitted herewith.
5. **FR 2 848 822 A1** - An abstract of the disclosure of this document can be found in the English language esp@cenet abstract submitted herewith.
6. **JP 10-158450** - An abstract of the disclosure of this document can be found in the English language Derwent abstract submitted herewith.
7. **JP 10-158451** - An abstract of the disclosure of this document can be found in the English language Derwent abstract submitted herewith.
8. **JP 10-506643** - An abstract of the disclosure of this document can be found in the English language Derwent abstract submitted herewith.

9. **JP 2001-011340** - An abstract of the disclosure of this document can be found in the English language Derwent abstract submitted herewith.

10. **JP 5-17710** - An abstract of the disclosure of this document can be found in the English language Derwent abstract submitted herewith.

11. **JP 7-258460** - An abstract of the disclosure of this document can be found in the English language Derwent abstract submitted herewith.

12. **JP 9-188830** - An abstract of the disclosure of this document can be found in the English language Derwent abstract submitted herewith.

13. **WO 96/38126** - An abstract of the disclosure of this document can be found in the English language Derwent abstract submitted herewith.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Office applies any of the documents as prior art against any claims in the application and Applicants determine that the cited documents do not constitute "prior art" under United States law, Applicants reserve the right to present to the Office the relevant facts and law regarding the appropriate status of such documents.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

IV. Conclusion

If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account No. 06-0916.

Respectfully submitted,

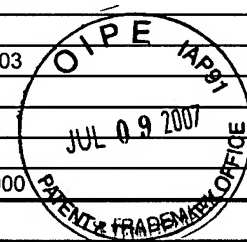
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Thalia V. [Signature]
Reg. No. 39,064

Dated: July 9, 2007

By: *[Signature]*
Courtney B. Meeker
Reg. No. 56,821

IDS Form PTO/SB/08: Substitute for form 1449A/PTO			Complete if Known		
INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(Use as many sheets as necessary)</i>			<i>Application Number</i>	10/699,780	
			<i>Filing Date</i>	November 4, 2003	
			<i>First Named Inventor</i>	Sue FENG	
			<i>Art Unit</i>	1615	
			<i>Examiner Name</i>	J. VENKAT	
<i>Sheet</i>	1	of	3	<i>Attorney Docket Number</i>	05725.0895-02000



U.S. PATENTS AND PUBLISHED U.S. PATENT APPLICATIONS					
Examiner Initials	Cite No.	Document Number	Issue or Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code (if known)			
	1	4,885,709	12/5/1989	Edgar et al.	
	2	5,825,543	10/20/1998	Ouderkirk et al.	
	3	6,103,250	8/15/2000	Brieva et al.	
	4	6,387,498	5/14/2002	Coulter et al.	
	5	6,489,283	12/1/2002	Afriat	
	6	6,503,521	1/7/2003	Atis et al.	
	7	6,607,734	8/1/2003	Afriat	
	8	6,656,487	12/1/2003	Afiat et al.	
	9	6,689,345	2/1/2004	Jager Lezer	
	10	US 2004-0156813	8/12/2004	Ferrarri	
	11	US 2005/0008595	1/13/2005	Lee et al.	
	12	US 2005/0118122	6/2/2005	Simon et al.	
	13	US 2006/0257336 A1	11/16/2006	Ferrari et al.	
	14	US-2004/0223987	11/11/2004	Ferrari	

FOREIGN PATENT DOCUMENTS						
Examiner Initials	Cite No.	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	Translation
		Country Code Number Kind Code (if known)				
	15	EP 0 462 709 A2	12/27/1991	Macchio et al.		English
	16	EP 1 018 332	7/12/2000	Travkina et al.		English
	17	EP 1 382 322 A2	1/21/2004	Simon et al.		Abstract
	18	EP 1 477 154 A1	11/17/2004	Girier et al.		Abstract
	19	FR 2 528 699	12/23/1983	Arraudeau et al.		Abstract
	20	FR 2 804 286	8/3/2001	Philippe et al.		Abstract
	21	FR 2 848 822 A1	6/25/2004	Lee Hojung et al.		Abstract
	22	JP 10-158450	6/16/1998	Shinetsu Polymer Co.		Abstract
	23	JP 10-158451	6/16/1998	Asahi Denka Kogyo KK		Abstract
	24	JP 10-506643	6/30/1998	Daubige et al.		Abstract

Examiner Signature		Date Considered	
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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				<i>Examiner Name</i>	J. VENKAT
Sheet	2	of	3	<i>Attorney Docket Number</i>	05725.0895-02000

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		Country Code Number Kind Code (if known)				
	25	JP 2001-011340	1/16/2001	Nippon Sheet Glass Co.		Abstract
	26	JP 5-17710	1/26/1993	Kansai Paint Co. Ltd.		Abstract
	27	JP 7-258460	10/9/1995	Teijin Kasei LTD		Abstract
	28	JP 9-188830	7/22/1997	Nisshin Steel Co. Ltd.		Abstract
	29	WO 96/38126	5/12/1996	Roulier et al.		Abstract
	30	WO 99/36477	7/22/1999	Minnesota Mining & Manufacturing Co.		English

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation
	31	English language DERWENT Abstract for JP 5-17710	
	32	English language DERWENT Abstract for EP 1 382 322 A2	
	33	English language DERWENT Abstract for FR 2 528 699	
	34	English language DERWENT Abstract for JP 10/506643	
	35	English language DERWENT Abstract for JP 10-158450	
	36	English language DERWENT Abstract for JP 10-158451	
	37	English language DERWENT Abstract for JP 2001/011340	
	38	English language DERWENT Abstract for JP 7-258460	
	39	English language DERWENT Abstract for JP 9-188830	
	40	English language DERWENT Abstract for WO 96/38126	
	41	English language DERWENT abstract of FR 2 804 286	
	42	English language esp@cenet abstract for EP 1 477 154 A1	
	43	English language esp@cenet abstract for FR 2 848 822	
	44	Office Action in co-pending Application No. 09/749,036 (Attorney Docket No. 05725.0832-00) dated January 17, 2007 (Ex. Venkat)	
	45	Office Action in co-pending Application No. 10/450,108 (Attorney Docket No. 05725.1198-00) dated March 21, 2007 (Ex. Venkat)	

Examiner Signature		Date Considered	
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				<i>Art Unit</i>	1615
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Sheet	3	of	3	<i>Attorney Docket Number</i>	05725.0895-02000

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Examiner Initials	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation
	46	Office Action in co-pending Application No. 10/728,888 (Attorney Docket No. 6028.0036-00) dated March 28, 2007 (Ex. Elhilo)	
	47	Office Action in co-pending Application No. 10/990,475 (Attorney Docket No. 05725.1004-01) dated January 23, 2007 (Ex. Venkat)	
	48	Office Action in co-pending Application No. 11/212,811 (Attorney Docket No. 05725.0816-03) dated May 17, 2007 (Ex. Venkat)	
	49	Richard M. Sayre, "Physical Sunscreens," J. Soc. Cosmes. Chem., 41, 103-109 (March/April 1990)	

Examiner Signature		Date Considered	
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